

THE MADRAS LEGISLATIVE COUNCIL.

Monday, the 30th June 1952.

The House met in the Council Chamber, Fort St. George, at four of the clock, Mr. Chairman (THE HON. DR. P. V. CHERIAN) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Constitution of the Public Health Engineering Department.

* 5 Q.—SRI T. PURUSHOTHAMA MUDALIAR: Will the Hon. the Minister for Health be pleased to state—

(a) whether the Public Health Engineering Department is now treated as a branch of the Public Works Department;

(b) whether the Highways Department has been constituted into a separate Department recently;

(c) whether the water-supply and drainage committee appointed by the Madras Government recommended that the Public Health Engineering Branch should be constituted into a separate Department with a view to speedy and efficient execution of water and drainage works; and

(d) what action has been taken by the Government to implement the scheme recommended by the Water-Supply and Drainage Committee?

THE HON. SRI A. B. SHETTY :—“(a) The answer is in the affirmative.

“(b) The Highways Department was constituted into a separate Department on 1st April 1946.

“(c) The answer is in the affirmative.

“(d) The Sanitary Engineering Department has been reorganized into an independent unit as a preliminary to the formation of a separate Public Health Engineering Department. The work of execution of water-supply and drainage schemes has been transferred from the Public Works Branch to the Sanitary Engineering Branch. The Sanitary Engineer, however, continues to be under the general control of the Chief Engineer (Public Health).”

SRI T. PURUSHOTHAMA MUDALIAR.—“May I know, Sir, whether the Government have any proposal to up-grade the post of Sanitary Engineer as Chief Engineer, Public Health?”

THE HON. SRI A. B. SHETTY :—“The matter is under the consideration of the Government.”

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SRI T. PURUSHOTHAMA MUDALIAR :—“ May I know, Sir, when the scheme recommended by the Water-Supply and Drainage Committee will be implemented? ”

THE HON. SRI A. B. SHETTY :—“ That will take some time, Sir.”

The State Transport Scheme.

* 6 Q.—SRI T. PURUSHOTHAMA MUDALIAR : Will the Hon. the Minister for Industries and Labour be pleased to state—

(a) the number of Government buses now running under the State Transport Scheme;

(b) the amount of annual savings to the State since the inception of the scheme; and

(c) the steps taken to further nationalization of Bus Transport System by extension of the same to adjoining district centres radiating from the Madras City?

THE HON. DR. U. KRISHNA RAO :—“ (a) There are in all 339 buses in the State Transport Department, of which 285 buses are normally scheduled to ply on the road in each shift.

“ (b) A statement^a furnishing the information required is laid on the table of the House.

“ (c) The Government have deferred for the present the question of extension of the scheme of nationalization of Motor Transport outside the Madras City.”

SRI T. PURUSHOTHAMA MUDALIAR :—“ May I know, Sir, whether there is a proposal to increase the number of buses in the City? ”

THE HON. DR. U. KRISHNA RAO :—“ There is a proposal to replace some of the buses which have become old and rickety. But at present there is no proposal to increase the number of buses.”

SRI T. PURUSHOTHAMA MUDALIAR :—“ May I know, Sir, whether any arrangements have been made by the Government to relieve the congestion of traffic during peak hours? ”

THE HON. DR. U. KRISHNA RAO :—“ I would like to inform the hon. Member that during peak hours we run shuttle services which, to a great extent, have relieved the congestion in passenger traffic. If it is possible to put more buses on the road we may do it; but that means more congestion in bottlenecks near Central Station and Mount Road.”

SRI T. PURUSHOTHAMA MUDALIAR :—“ With reference to the statement placed on the Table of the House, may

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I know Sir, whether in assessing the savings, the Hon. Minister has taken note of the loss of income from motor vehicles taxation which the Government would have got if private buses had been licensed? "

THE HON. DR. U. KRISHNA RAO :—" Notice."

SRI T. PURUSHOTHAMA MUDALIAR :—" It is found in the statement placed on the Table of the House, that the Government have made a profit of about six lakhs of rupees from the Government Bus Service in 1947-48, about eight and a half lakhs of rupees in 1948-49, Rs. 1,47,602 in 1949-50, and Rs. 4,21,937 in 1950-51. May I know the reason for the fall in the annual savings to the State during 1949-50 and 1950-51? "

THE HON. DR. U. KRISHNA RAO :—" I would like to inform the hon. Member that buses run efficiently for the first two years and in the third year they have to undergo a lot of repairs. The cost of spare parts, petrol and tyres had gone up tremendously during these years. That explains why there have been less savings. Of course in 1950-51, there have been more savings. I must say, however, that in the current year the position is not as bright as it was in 1950-51."

SRI V. CHAKKARAI CHETTY :—" May I know, Sir, whether the fall in savings in 1949-50 was due to the less number of passengers that travelled in the buses or to the high cost of the repairs that had to be carried out to the buses? "

THE HON. DR. U. KRISHNA RAO :—" Sir, roughly about 33,000 passengers travel every day. During special seasons about 50,000 passengers travel. There is no fall in the number of passengers. Apart from seasonal variations or extra circumstances, the loss in annual savings is due to increased expenditure and not due to the fall in the number of passengers carried."

SRI S. B. ADITYAN :—" In view of the fact that the Government are now making a handsome profit in this transport business, may I know, Sir, whether they have any proposal to reduce the bus fares in order to help the poor people who are mostly walking from their homes to their places of work? "

THE HON. DR. U. KRISHNA RAO :—" I think the hon. Member will grant that there can be two views on the question of profit. We are not making a handsome profit. If we do make a handsome profit, we will consider the hon. Member's suggestion."

SRI S. B. ADITYAN :—" May I know, Sir, whether the figures furnished in the statement placed on the Table of the House do not represent profits made by the Government? "

THE HON. DR. U. KRISHNA RAO :—" The savings shown under the Automobile Workshop and the Coach Building Factory have no relation whatsoever to the passenger traffic. We have only to take into account the savings under the

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Bus Service in considering the question of reduction or increase in passenger fares. I think I should require notice, if I have to give more details as to whether this amount of profit is sufficient to warrant a reduction of passenger fares and if so, to what extent they can be reduced. The hon. Member may put a separate question on this subject."

SRI S. B. ADITYAN :—" May I know, Sir, whether the Government have got any proposal to meet the surcharge on bus fares under the Bill pending before the legislature, out of the Government's savings instead of collecting it from the passengers themselves? "

THE HON. DR. U. KRISHNA RAO :—" I am very glad to inform the hon. Member that there is a proposal before the Government to exempt the Madras City Bus Transport from the operation of this new Bill, under which we propose to levy a surcharge on fares collected by operators of buses or stage carriages."

SRI V. CHAKKARAI CHETTY :—" We thank you, Sir, very much for it."

SRI K. BALASUBRAMANYA AYYAR :—" Have the figures shown in the statement been obtained after a thorough audit of the accounts of the Transport Department? "

THE HON. DR. U. KRISHNA RAO :—" There is an auditor for the department."

Elections to local bodies.

* 7. Q.—SRI T. PURUSHOTHAMA MUDALIAR : Will the Hon. the Minister for Local Administration be pleased to state—

(a) when the general elections of members of the Municipal Councils and Panchayat Boards (Ex-Union Boards) and Village Panchayats were last held;

(b) whether the term of these bodies is being extended from time to time;

(c) what action has been taken to conduct immediately elections to all District Boards, Municipalities and Panchayat Boards on the basis of adult suffrage; and

(d) when the elections are programmed to be held to the several local bodies stated above?

THE HON. SRI N. SANKARA REDDY :—" (a) For Municipal Councils in 1947; for Panchayats in 1939.

" (b) Yes.

" (c) & (d) Orders have already been issued to the Election Authority, namely, the Inspector of Municipal Councils and Local Boards for the conduct of elections to all municipal councils during this year on the basis of adult suffrage so

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that the new councillors may come into office on 1st November 1952. The question of elections to District Boards is still under consideration.

"As regards panchayat elections, no date has been fixed. Elections will be held on adult suffrage as provided in the Madras Village Panchayats Act. Preparations are being made to hold elections to existing panchayats as soon as possible. These elections will be held in groups in each district one by one."

SRI T. PURUSHOTHAMA MUDALIAR :—"May I know, Sir, whether any representations have been made to the Government by the Madras Chamber of District Boards with regard to the postponement of elections to District Boards?"

THE HON. SRI N. SANKARA REDDY :—"I do not think that any representations have been made."

SRI T. PURUSHOTHAMA MUDALIAR :—"May I know, Sir, whether the Government have considered the question of spacing the elections to Municipalities, District Boards and Panchayats so that elections to Municipalities may be held one year, elections to District Boards the next year, and elections to Panchayats in another year, so that all elections need not be held during one and the same year?"

THE HON. SRI N. SANKARA REDDY :—"At present, elections to Municipal Councils alone have been ordered. As regards panchayat elections no date has been fixed. The question of conducting elections to District Boards is under the consideration of the Government."

SRI M. P. GOVINDA MENON :—"Sir, it is learnt from the newspapers that the Government have appointed a Sub-Committee of the Cabinet to examine the provisions of the Madras Village Panchayats Act. May I know, whether the elections to the Panchayats will be conducted after this examination by the Sub-Committee of the Cabinet is over?"

THE HON. SRI N. SANKARA REDDY :—"The Cabinet Sub-Committee which is examining this matter has not finalized its proposals. The Cabinet will go into the Sub-Committee's proposals as soon as they are submitted to them."

Constitution of separate committees for increasing the powers of the municipal councils and district boards.

* 8 Q.—**SRI T. PURUSHOTHAMA MUDALIAR** : Will the Hon. the Minister for Local Administration be pleased to state—

(a) whether separate committees have been constituted to consider the question of increasing the powers of the municipal councils and district boards;

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(b) whether the reports of the respective committees have been received by the Government; and

(c) the reasons for the delay in publishing the reports and passing orders on the same?

THE HON. SRI N. SANKARA REDDY :—“(a) The answer is in the affirmative.

“(b) The report of the Committee on municipal administration has been received; the Committee on district board administration has not yet concluded its labours and its report is awaited.

“(c) The various recommendations of the Committee on municipal administration had to be examined in detail in consultation with the heads of departments concerned. Government will shortly take a decision on them after which the question of issuing a white paper with a copy of the report appended to it will be considered.”

Elections to the Madras Corporation.

* 9 Q.—SRI T. PURUSHOTHAMA MUDALIAR: Will the Hon. the Minister for Local Administration be pleased to state—

(a) when the general elections to the Madras Corporation were last held;

(b) when the next elections to the Madras Corporation are due to be held;

(c) whether arrangements have been made to have the elections conducted accordingly; and

(d) whether the elections are proposed to be held on the basis of adult franchise?

THE HON. SRI N. SANKARA REDDY :—“(a) The general elections to the Madras Corporation were last held in August-September 1948.

“(b) The term of office of the councillors and aldermen was extended by legislation up to 1st November 1952. The next elections are due to be held in August-September 1952.

“(c) & (d) Yes.”

SRI T. PURUSHOTHAMA MUDALIAR :—“May I know, Sir, whether the Government have considered the resolution passed by the Corporation of Madras for the postponement of elections and for redistribution of electoral divisions?”

THE HON. SRI N. SANKARA REDDY :—“Redistribution of electoral divisions is not necessary, and elections to the Madras Corporation can be held.”

SRI T. PURUSHOTHAMA MUDALIAR :—“May I know, Sir, whether reservation of seats for minorities would continue for the Corporation elections this year?”

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THE HON. SRI N. SANKARA REDDY :—" It will continue, Sir."

SRI S. B. ADITYAN :—" May I know, Sir, whether the Government have any proposal to abolish the pocket boroughs for a few privileged persons in the seats provided for the Nattukottai Chettiars' Association, the Chambers of Commerce and other special interests? "

THE HON. SRI N. SANKARA REDDY :—" They are continuing for this election. I do not know what the hon. Member means by a ' pocket borough ' ? "

SRI V. CHAKKARAI CHETTY :—" May I know whether the electoral rolls have been modified or revised since the last Assembly elections took place? "

THE HON. SRI N. SANKARA REDDY :—" The Assembly rolls will be used for the Corporation elections also. They have been revised according to the divisions of the Corporation."

SRI S. B. ADITYAN :—" Is it correct, Sir, that under the ordinary territorial constituency as many as 20,000 people elect one Member while a few hundred persons in the Chambers of Commerce and the Nattukottai Chettiars' Association elect a Member each? "

THE HON. SRI N. SANKARA REDDY :—" The existing arrangements will continue for this election."

SRI V. CHAKKARAI CHETTY :—" May I know, Sir, whether the Government are keeping separate electorates for Muslims, Christians, etc., under the existing arrangements? "

THE HON. SRI N. SANKARA REDDY :—" The existing separate electorates are continued, Sir."

SRI V. CHAKKARAI CHETTY :—" Have the Government any idea of abolishing separate electorates as they have done in the case of Assembly elections? "

THE HON. SRI N. SANKARA REDDY :—" That will be done in due course."

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—MESSAGE FROM THE ASSEMBLY.

ANNOUNCEMENT *re* THE MADRAS REQUISITIONED LAND (CONTINUANCE OF POWERS) BILL, 1952, (L.A. BILL NO. 3 OF 1952) (AS PASSED BY THE ASSEMBLY).

MR. CHAIRMAN :—" I have to announce to the House that I have received the following message, dated the 28th June 1952, from the Hon. the Speaker, Madras Legislative Assembly :—

' I transmit a copy of the Madras Requisitioned Land (Continuance of Powers) Bill, 1952 (L.A. Bill No. 3 of 1952), (as passed by the Assembly) on the 28th June 1952 and signed by me for the concurrence of the Council.' "

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III.—CHAIRMAN'S RULING ON THE PRIVILEGE MOTION *RE* LEAKAGE OF GOVERNMENT'S TAXATION PROPOSALS.

MR. CHAIRMAN :—“ On the 27th June, the hon. Member, Sri S. B. Adityan, the Leader of the Opposition, made the following motion: ‘ That the question of breach of privilege of the Members of this House arising out of the publication in newspapers of the taxation proposals contained in the Finance Minister’s Budget speech before they were available to the Members of this House be referred to a Committee of Privileges to be constituted under Rule 143 of the Council Rules.’ ”

“ I have to decide whether this Motion is in order, whether there is any question of privilege of this House involved in the alleged premature publication of the taxation proposals of Government, and whether there is a *prima facie* case of breach of privilege to go before the Committee of Privileges of this House.

“ As the question for decision was one of some importance, I took time to consider it.

“ I have carefully considered the authorities and am clearly of opinion that no question of breach of privilege of this House arises in this case. What is alleged is a divulgence or leakage of a Cabinet secret. The Cabinet is of course entitled in its discretion to treat its discussions and decisions as secret until it itself permits their disclosure. But the privilege of secrecy of a Cabinet secret is that of the Cabinet and its protection is its own concern. The secrecy of Cabinet decisions cannot be a privilege of this House, though the House will be justified in the public interest in its maintenance. Nor is the first disclosure to Parliament of the Government’s taxation proposals included among the recognized privileges of Parliament. The words ‘ Privileges of Parliament ’ are technical in their import and restricted in their content. They should not be confounded with Functions of Parliament. They have become defined by the practice of centuries in England, where it is settled law that no new privilege can be created (page 45 of May, 15th edition).

“ The hon. Members will remember that even in the case of Dalton, which was relied upon in support of this Motion, the disclosures of Cabinet secrets were not raised on a Motion of Privilege and as breach of a Parliamentary privilege, and were not asked to be referred to the Committee of Privileges of the House. The question was raised only as a matter of public concern and was not referred to the Committee of Privileges.

“ In the circumstances, I must hold that the Motion before the House is out of order and should be disallowed. I disallow it accordingly.”

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IV.—PANEL OF CHAIRMEN.

MR. CHAIRMAN :—" I have to announce to the House that under rule 15 of the Council Rules, I have nominated the following four Members of the Council to be the Panel of Chairmen for the second session of the Legislative Council under the new Constitution :—

Sri K. Bhashyam,

Srimathi S. Manjubhashini,

Srimathi J. Sitamahalahaxmi,

Dr. R. K. Shanmukham Chetty.

V.—GOVERNMENT MOTIONS.

(1) HOUSE COMMITTEE.

THE HON. SRI C. RAJAGOPALACHARI :—" Mr. Chairman, Sir, I beg to move—

' That with reference to Rule 144 of the Madras Council Rules, the House do proceed on a date to be fixed by the Hon. the Chairman to elect six Members to be Members of the House Committee for the financial year 1952-53. '

MR. CHAIRMAN :—" The question before the House is—

' That with reference to Rule 144 of the Madras Council Rules, the House do proceed on a date to be fixed by the Hon. the Chairman to elect six Members to be Members of the House Committee for the financial year 1952-53. '

The Motion was carried.

MR. CHAIRMAN :—" I have to inform the House that, in accordance with the Regulations framed by me for the holding of elections according to the principle of proportional representation by means of the single transferable vote, I fix 5 p.m. on Thursday the 3rd July 1952 as the time within which nomination of candidates for election to the House Committee should reach the Secretary. There will be an election between 11 a.m. and 2 p.m. on Monday, the 7th July 1952 if the number of candidates nominated exceeds six."

(2) COMMITTEE OF PRIVILEGES.

THE HON. SRI C. RAJAGOPALACHARI :—" Mr. Chairman, Sir, I beg to move—

' That with reference to Rule 143 of the Madras Council Rules, this Council do proceed on a date to be fixed by the Hon. the Chairman to elect nine Members to be Members of the Committee of Privileges for the financial year 1952-53. '

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MR. CHAIRMAN :—“ The question before the House is—

‘ That with reference to Rule 143 of the Madras Council Rules, this Council do proceed on a date to be fixed by the Hon. the Chairman to elect nine Members to be Members of the Committee of Privileges for the financial year 1952-53.’ ”

The Motion was carried.

MR. CHAIRMAN :—“ I have to inform the House that, in accordance with the Regulations framed by me for the holding of elections according to the principle of proportional representation by means of the single transferable vote, I fix 5 p.m. on Thursday the 3rd July 1952 as the time within which nomination of candidates for election to the Committee of Privileges should reach the Secretary. There will be an election between 11 a.m. and 2 p.m. on Tuesday the 8th July 1952 if the number of candidates nominated exceeds nine.”

(3) STATE LIBRARY COMMITTEE.

THE HON. DR. M. V. KRISHNA RAO :—“ Mr. Chairman, Sir, I beg to move—

‘ That in pursuance of Rule 2 (1) (v) of the Madras Public Libraries Rules, 1950, this Council do proceed on a date to be fixed by the Hon. the Chairman to elect one person to the State Library Committee constituted under Section 3 of the Madras Public Libraries Act, 1948 (Madras Act XXIV of 1948).’ ”

MR. CHAIRMAN :—“ The question before the House is—

‘ That in pursuance of Rule 2 (1) (v) of the Madras Public Libraries Rules, 1950, this Council do proceed on a date to be fixed by the Hon. the Chairman to elect one person to the State Library Committee constituted under section 3 of the Madras Public Libraries Act, 1948 (Madras Act XXIV of 1948).’ ”

The Motion was carried.

MR. CHAIRMAN :—“ With reference to the Motion of the Hon. the Minister for Education regarding the election of one Member of this Council to the State Library Committee, I am to state that the nominations should be handed over to the Secretary before 5 p.m. on Wednesday, the 2nd July 1952. Nomination forms can be obtained from the Secretary.

“ There will be an election, between 11 a.m. and 1 p.m. on Thursday, the 3rd July 1952, if the number of candidates nominated exceeds one. The election will be by the ordinary method and not according to the method of single transferable vote.”

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(4) REORGANIZED M. & S. M. RAILWAY LOCAL ADVISORY COMMITTEE
OF THE SOUTHERN RAILWAYS.

THE HON. DR. U. KRISHNA RAO :—" Mr. Chairman, Sir, I beg to move—

'That, as the term of membership of Sri N. Ranga Reddi, who has been elected to represent the Madras Legislative Council on the reorganised M. & S. M. Railway Local Advisory Committee for a period of two years from October 1950 has since expired consequent on the expiry of the term of the Madras Legislative Council and as the General Manager, Southern Railway, has requested the Government to communicate to him the name of the fresh representative of the newly constituted Council on the Committee, this Council do recommend to the Government to communicate to the General Manager, Southern Railway, the name of one Member elected by this Council to serve on the Committee.' "

MR. CHAIRMAN :—" The question before the House is—

"That, as the term of membership of Sri N. Ranga Reddi, who has been elected to represent the Madras Legislative Council on the reorganized M. & S. M. Railway Local Advisory Committee for a period of two years from October 1950 has since expired consequent on the expiry of the term of the Madras Legislative Council and as the General Manager, Southern Railway, has requested the Government to communicate to him the name of the fresh representative of the newly constituted Council on the Committee, this Council do recommend to the Government to communicate to the General Manager, Southern Railway, the name of one Member elected by this Council to serve on the Committee.' "

The Motion was carried.

MR. CHAIRMAN :—" The following procedure shall be adopted for conducting the election of one Member to the Local Advisory Committee of the reorganized Madras and Southern Mahratta Railway. Hon. Members will please hand in the nominations to the Secretary before 5 p.m. on Wednesday, the 2nd July 1952. If the number of candidates nominated exceeds one, an election will be held between 3 p.m. and 5 p.m. on Thursday, the 3rd July 1952. The election will be by the ordinary method and not according to the method of single transferable vote."

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VI.—GOVERNMENT BILLS.

THE MADRAS REQUISITIONED LAND (CONTINUANCE OF POWERS) BILL *, 1952 (L.A. BILL NO. 3 OF 1952) (AS PASSED BY THE ASSEMBLY).

THE HON. SRI M. A. MANICKAVELU NAICKER :—“ Mr. Chairman, Sir, I beg to move—

That the Madras Requisitioned Land (Continuance of Powers) Bill, 1952 (L.A. Bill No. 3 of 1952), as passed by the Assembly be taken into consideration.”

“ Sir, the Bill as passed by the Assembly has been circulated to hon. Members. I should like to say a few words about the necessity for this legislation. During the War, lands and buildings were requisitioned under the Defence of India Act, 1939, and they continued to be subject to requisition under the Requisitioned Land (Continuance of Powers) Act, 1947 (Central Act XVII of 1947). That Act expired on the first of April 1951 and it was extended for a further period of one year by Central Act IX of 1951. But that Act did not apply to State properties and therefore, the Madras State passed another Act, Madras Act II of 1951. In March, this year, a new measure called the Requisitioning and Acquisition of Immovable Property Act, 1952 (Central XXX of 1952) was passed by Parliament and this repealed Act XVII of 1947. The result was that while the Central Government took care to make suitable provision in respect of Central properties, the State was left without any legislation concerning its properties. Therefore, Madras Ordinance I of 1952 was promulgated and that had to be replaced by a regular legislation. Pursuant to that, this Bill was introduced in the other House. Though it is a small Bill, it was thought fit to refer it to a Select Committee. The Select Committee consisted of Members from the various sections of the House; a lady Member of the Assembly, who is an advocate was also on the Committee. The Committee went carefully into the provisions of the Bill and therefore despite the many changes made in it, the Assembly accepted the measure as it emerged from the Committee and passed it in a few minutes. The Bill has now come here, and I am sure there will not be much difficulty in this House passing the measure also.”

MR. CHAIRMAN :—“ The Motion before the House is—

That the Madras Requisitioned Land (Continuance of Powers) Bill, 1952 (L.A. Bill No. 3 of 1952), as passed by the Assembly be taken into consideration.”

* SRI S. B. ADITYAN :—“ Mr. Chairman, Sir, we have been given copies of the Bill and we find that on the first page of the little pamphlet there is a report of the Select Committee which was appointed to consider the Bill in the other House. As regards the history of this measure, I see that, it was published in the Gazette and introduced in the other House; and there it was thought to be such an important measure that a Select Committee

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should go into it and accordingly a Select Committee was set up. As the Hon. Minister himself observed, the Committee which consisted of a lady Member also, went thoroughly into the Bill and made a report. Then the House considered the report and passed the Bill as amended by the Select Committee. The Bill has come to this House at this stage. I ask, Sir, whether we can now do any useful work with regard to this Bill; it has come to us at its final stage, at which it will not be possible for us to make any real contribution in shaping it. Can we change even a comma or a fullstop or even a word in the text of the Bill? I am sure the Government are not prepared to accept any such thing. I submit what really ought to have been done with a Bill of this nature is that it should have been referred to a Joint Select Committee of both the Houses of Legislature. I agree that in regard to Money Bills we cannot make any effective contribution, but in the case of all non-Money Bills, which are considered important enough to be referred to Select Committees, they must be referred to Joint Select Committees. Members of this House are reputed to be persons with ripe experience, as a higher age limit has been fixed for Membership of this House; as a matter of fact, this House consists of very able persons, persons of talent and wide experience. It is but proper that some of them should take part in the deliberations of the Select Committee on such a Bill so that they could make effective contribution to the discussions relating to the shaping of the Bill. It is not as if the changes made in this particular Bill by the Select Committee are unimportant.

“ Sir, I find actually in the report of the Select Committee that important changes have been made. The Committee themselves say that the changes they have made are important. They say that they have made provision for notice. They have made special provision in regard to the possession by the Government of the requisitioned property. They have also made provision for compensation. These changes are important. Why should we assume that good suggestions will be made only by the Members of the other House? Sir, this question has been considered before. This is not the first time that this matter has been raised here. Some years ago this matter, that is, the question of appointing a Joint Select Committee of both the Houses was considered and there was a discussion between the then Leader of the other House, Mr. Gopala Reddi and the then Chairman, Mr. R. B. Ramakrishna Raju. It was finally agreed that in the case of all non-Money Bills which are considered to be important enough to be referred to a Select Committee, that Committee should consist of members of both the Houses, so that the ripe experience of the Members of this House may also be put to use for the purpose of drafting the Bill. I do not know why that procedure has not been observed in this case, while we have been observing that convention all along. It is not a ruling, but it is a practice that has been observed in regard to matters of this kind. So far as I know, if a Joint Select Committee had been appointed, it would have been possible for the Members of this House to express their opinion. We have got persons in this House who possess legal

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experience and administrative ability. We have got Sri Bhashyam Ayyangar, a retired Judge, for whom I have great respect. We have also got Dr. Lakshmanaswami Mudaliyar and Dr. Shanmukham Chetty. Such persons ought to have been given an opportunity to effectively express their opinions on this Bill. Do the Government think that the suggestions they may make should not carry any weight? This is a matter for the Hon. Chairman to take up and consult all persons concerned, and I hope at least from next time onwards it would be agreed as a convention or arrangement between the two Houses that Select Committees appointed to consider non-Money Bills should be Joint Select Committees.

“ Sir I am not saying anything against the inclusion of a lady Member from the other House. But I do not understand the point made about the lady Member. I am sure, we have lady Members here also who could make as much contribution to the discussion of the Bill as the Lady Member of the other House. If we cannot have an effective voice in the shaping and wording of a Bill of this kind, what for are we here? Are we merely to set our seal of approval on whatever the other House passes or the Select Committee of that House is pleased to send here? Are we merely to rubber-stamp anything that comes from the other House and then pass it? Therefore, my humble submission is that, if we cannot make an effective contribution, this House is practically useless, and it may even be better to abolish it. I can understand it if there is no Joint Select Committee for a Money Bill. But in the case of a Bill not certified by the Speaker to be a Money Bill, there should be a Joint Select Committee of both the Houses. Otherwise, what is the purpose for which we are here? Are we not possessing that amount of knowledge and talent the other House possesses? Is it not necessary that we should contribute our share to the making of a Bill of this kind? If not, I think, it is mere waste of money to have this House. Some time ago, actually there was a proposal to abolish this House. I find that hon. Members on the other side are also agreeing with me. It is not only the opposition side that is powerless but also the other side. I say, let any hon. Member on the other side try to make any change and he will see what happens. Such changes will not be allowed to be made. Is this House intended for the purpose of finding seats for Ministers who are either lazy or unwilling to face an election? I am not referring to the Hon. the Chief Minister. We have had other nominations of Ministers as Members. We have had Dr. Gurubatham and Sri Kala Venkata Rao who were chosen as Ministers and nominated as Members of this House instead of making them face an election. Is that all the purpose of this House? I think, if that is to be the view, we must cease spending public funds on this House. We are merely wasting public money. Of course, the Congress Party is in a majority in this House and we in the opposition are in a minority, and they can get anything they want, but at the same time we have got to think of the people's money. We should not waste their money. What do we actually find to-day? The

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other House had appointed a Select Committee and under Rule 109 we are prevented from appointing a Committee of our own.

"Now, I come to another matter. We did not have time to go through the Bill thoroughly. We must have had some three days' notice. Some of us got the Bill only yesterday and I hope in future we will be given sufficient time to go through Bills."

SRI V. CHAKKARAI CHETTY :—"Mr. Chairman, Sir, I am not claiming any right as a man of legal experience and talent, as my hon. Friend Mr. Adityan claims, but I am speaking as an ordinary man. Perhaps, the Hon. Minister who moved this Motion thinks that he is the chief shepherd and we are the sheep, and he expects us all to follow him wherever he goes. I am quite prepared to do that on certain occasions, but at present, Sir, I feel that we ought to have been given some more time to think about this matter. It may be that it is purely a formal matter not requiring much consideration, and it may be that even after we have gone into this Bill thoroughly we may not feel called upon to make any radical changes in the Bill, and we may practically rubber-stamp this Bill as passed by the Assembly. But whatever it may be, I wish also to ask you, Sir, to give us time not only to consider the Bill but, if necessary, to propose amendments. I do not know whether the Rules under the Constitution prevent us from making suitable amendments to any Bill that might have been passed by the Assembly. No doubt, we are only, in one sense, an auxiliary or a subordinate body, not having any original jurisdiction in regard to matters of this kind. But in all fairness, a certain amount of latitude and indulgence ought to be allowed to this House in order that it may make some contribution, however humble it may be, to the improvement of the Bill. I wish that this may be taken into consideration, though at this stage we are called upon to follow in the footsteps of our chief leader so far as this Bill is concerned and vote for it."

* **SRI K. BALASUBRAMANYA AYYAR** :—"Mr. Chairman, Sir, I also wish to mention certain difficulties in regard to the passing of this Bill. This is a short Bill and the principles involved in the Bill are very few. Still some verbal amendments may be necessary. It may not be possible now to propose such amendments because notice of such amendments should be given three days in advance. Sir, only yesterday, we got the Bill as passed by the Assembly, and even in that Bill some corrections were made in ink some of which were not legible. It is only now that we saw the Bill finally printed and placed on the Table of this House. As I went through the provisions of the Bill carefully, I found that some clauses of the Bill require alteration and some verbal amendments. For instance, the Defence of India Rules have been bodily incorporated as a Schedule to this Bill. I do not know whether it has been noted by the Members of the Assembly.

[Sri K. Balasubramanya Ayyar] [30th June 1952]

"Now, Sir, I find, in the Schedule to the Bill, a reference to the Central Government appointing arbitrators. Section 19 (1) (b) of the Defence of India Act, 1939, as incorporated in the Schedule says—

'Where no such agreement can be reached, the Central Government shall appoint an arbitrator, a person qualified under sub-section 220 of the abovementioned Act, for appointment as a Judge of a High Court.'

Is it contemplated that the Central Government should appoint a person as arbitrator while we are dealing with the requisitioned properties? As a matter of fact this has been done merely in the course of drafting, when the Rules under the Defence of India Act have been incorporated as a Schedule to the Bill. Bills have to be carefully scrutinized by all the people concerned. Nobody should think that he can completely go through all the provisions in the Bill. Always there are drafting difficulties. Even the most competent person might, of course, overlook some provisions. It is, therefore, better that we should have Members of both the Houses on the Select Committee appointed to consider a Bill of this nature, so that the talent that is available in this House can be made use of for improving the Bill."

4-45 p.m. * SRI V. GURUNANDAN ROW :—“Mr. Chairman, Sir, I would also add my remarks regarding the unnecessary hurry in bringing forward this Bill. Ordinance II of 1952 was passed only on the 6th June; only after six weeks' time it will lapse. Further it is not as if we are sitting to-day for the last time in this session. In fact we have only commenced our sitting just now. The discussion of the Budget is not yet over; so we can take up this Bill later after the Budget discussion is over, instead of to-day. The Bill was received by us only yesterday evening, as was stated by the previous speaker, Mr. Balasubramania Ayyar. So it is impossible for anybody in such short time to give it the best attention and care that it deserves.

“Sir, just in passing, I may as well say this: though I have not made a thorough study of the Bill, from a perusal of it, it seems to me there is some constitutional difficulty involved in it. I doubt, whether even if we pass this Bill to-day, it will be constitutionally valid. As I said earlier, I have not studied it well; still, I hope I am not incorrect in my contention. For, I would like here to draw the attention of the House to Clause 2 of the Bill. It runs thus—

Continuance of requisition.—All immovable properties which were requisitioned by or under the authority of the State Government and for their purposes under the rules made under the Defence of India Act, 1939 (Central Act XXXV of 1939), and which at the commencement of this Act continued to be under requisition by virtue of the Requisitioned Land (Continuance of Powers) Act, 1947 (Central Act XVII of 1947), Madras Act II of 1951, Madras Ordinance I of 1952 and Madras Ordinance II of 1952 shall continue to be subject to requisition until the expiry of this Act.

Sir, I understand, at the time when Ordinance I of 1952 was placed on the table of the other House and this Bill came before that House, objection was raised as to the validity of that Ordinance because I think, when Madras Act II of 1951 was taken into consideration, the provisions of the Central Act had ceased to have

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effect, that is, that Act had been repealed. So, long before Ordinance I of 1952 was passed the Central Act itself had lapsed, and so the Madras Act ceased to have any existence at all. So it is doubtful whether Ordinance I had been effective. Then further complications arose, and Ordinance II of 1952 was promulgated. This Ordinance was passed after the commencement of the Legislature. In fact, it was passed after the Legislature had met and appointed a Select Committee to go into the Bill. The Legislature was prorogued. For what reason it was done, I do not know. In any case, once a Bill is before the House, I doubt very much whether an Ordinance on the subject will be valid; because it will go against Article 213 of the Indian Constitution, which provides that the Ordinance shall cease to operate at the expiration of six weeks from the reassembly of the Legislature. Sir, the Government cannot do indirectly what they cannot do directly. The effect of Madras Ordinance II is that Government indirectly make Ordinance I have effect for more than six weeks. So I will content myself now with saying that certainly there is a constitutional flaw, and I wish hon. Members of this House had been given more time, so that they may study the Bill thoroughly and make their best contribution to the shaping of the measure instead of showing them scant courtesy by circulating the Bill on a previous evening, asking them to study it overnight and pass it the next day after rushing it through all the stages."

* SRI B. V. SUBRAHMANYAM :—" Mr. Chairman, Sir, I too wish to make a few remarks on the same lines on which my friends have done with respect to this Bill. Firstly, I have not myself studied the Rules, and I plead guilty for not having done so. I wish it had been possible for one or two of us from this House to sit along with the Members of the Lower House in the Select Committee on this Bill. Then we could have trusted their judgment. Most of us have so many other matters to devote our attention to and in hurrying this Bill in this Chamber we feel that things have been done in the proper way. If only this House had been given some representation on the Select Committee the deliberations of this House would have been different to-day. As I said earlier, I have not studied the Rules; but if the Rules permit, or rather if the Rules do not make a Joint Select Committee impossible, I would say now, that at least as a matter of convention it should be made possible for this House hereafter to choose one or two Members of this House to sit on such a Committee, so that on an occasion like the present one we can contribute our mite to the proper shaping of the Bill. One or two such Members, if they were on the Committee could act as if briefed for us and put the case to us. At present, I will not say, 'I protest', but I will say, it seems unfair not to allow us sufficient time to devote our full attention to this measure. I say it is unfair to some of us who are trained for such a task not to allow us time to study the Bill from an angle different from that of the Members of the other House and present our amendments to the measure. So I should join my Friends, I do not say

[Sri B. V. Subrahmanyam] [30th June 1952]

Friends on our side only, in appealing to the good sense of the Government and that of the Hon. Minister concerned, to postpone the further discussion of this measure in this House to some other occasion, when, it may be possible for us to make our suggestions and put forward such amendments as are necessary. I think it would be best to have this measure taken up here a few days later, say, soon after the Budget discussion is over, that is, three or four days hence, so that we may have sufficient time to look into the great principles involved. So I appeal to the good sense of the Hon. Minister to postpone the discussion of this measure here for a few days."

* THE HON. SRI C. RAJAGOPALACHARI :—" Mr. Chairman, Sir, I am grateful to the suggestions made by hon. Members on the other side, on the general principles with regard to the procedure to be followed in future in piloting Bills. It was said that this House has an equal amount of interest in them, that it has plenty of talent and is anxious that ways should be found to utilise that talent. Sir, belonging as I do to this House and in which I am the Leader of the House, I do not deny that we have plenty of talent, and so I need not be expected to contradict my Friends on the opposite side when they claim that they should be put in a position to examine the merits and demerits of any measure brought forward here. I wish hon. Members who have protested against the passing of this Bill now, to understand the *bona fides* of our procedure. I see no objection to the procedure suggested by them. But I wish here to explain our *bona fides* in this measure. The object of this Bill is only this : There is no question of requisitioning property now. It is only a question of regularising the possession of property when derequisition process is going on. As we go on derequisitioning property we should take care to see that there is no legal law in the possession of property, until derequisitioning and handing-over is completed. The history of the measure has been traced by the hon. Mover of the Bill. When the Central Government reiterated their position when they re-enacted their measure they made the mistake, either knowingly or unknowingly of not providing for the necessary legal possession of properties in this State. It is only to correct that position that this Bill has been introduced now. There is no question of using this measure to requisition properties. It is to be used only to regularise the possession of properties while the derequisition process is going on.

" Then, Sir, with reference to the procedure we followed in regard to this Bill, I wish to say a few words. We introduced this Bill in the Assembly last session; we explained to that House the object of this legislation; we never expected such a formal Bill would demand the attention of a Select Committee; but it was proposed to refer the Bill to a Select Committee by certain Members and the Assembly agreed to it. The Select Committee went in great detail into the implications of the Bill; it devoted time to discuss the Bill, clause by clause. The changes made by the Select Committee are only formal. All the same I do not wish to say the

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changes are unimportant. These changes ought to have been made in the original Bill itself. It is only lapses of attention which necessitated the amendments. The amendments only filled the gaps in the law, which occurred due to lapses of attention while drafting it. As regards the *bona fides* of the Government in regard to this Bill when they first brought it forward, it was open to them to have brought forward a Resolution for referring this Bill to a Joint Select Committee. But at that time nobody ever expected that the Government would be asked to refer this measure to a Select Committee. No doubt the Rules provide for the formation of a Joint Select Committee. First of all a Resolution has to be brought forward in the Assembly for referring a Bill to a Joint Select Committee and then a similar resolution has to be brought forward here for such a purpose. I realise it is in Government's own interest that I should get every Bill thrashed out in a Joint Select Committee, where I have no doubt, more attention will be devoted and greater deliberation into the entire legal aspects of a measure will take place. But I have to say on this occasion, we have no time for all that now. But at the same time I wish to assure the House that there is no danger in passing this measure as it has emerged from the Assembly.

"As regards the point referred to by Mr. Balasubramania Ayyar, naturally, being a lawyer, he has laid the finger on the right spot. We shall certainly attend to it. The Ordinance is to lapse within a certain time. As regards the point raised by the Leader of the Opposition that there is no great hurry to pass this legislation, I would say there is no particular risk involved in passing this measure to-day.

"I promise on behalf of Government that in future, I shall always remember that when there is any question of importance we shall follow the procedure of having a Joint Select Committee so that we may have all talent put together and it will be easier to examine a thing when several heads come together. In so far as this Bill is concerned, I beg of the House to get through it without any further delay." 5 p.m.

MR. CHAIRMAN :—"The question is—

'That the Madras Requisitioned Land (Continuance of Powers) Bill, 1952 (L.A. Bill No. 3 of 1952), as passed by the Assembly be taken into consideration.'"

The Motion was carried.

Clauses 2 to 9 were put and carried.

The Schedule was put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

* THE HON. SRI M. A. MANICKAVELU NAICKER :—

"Sir, I beg to move—

'That the Madras Requisitioned Land (Continuance of Powers) Bill, 1952 (L.A. Bill No. 3 of 1952), as passed by the Assembly be read a third time and passed.'

[Sri M. A. Manickavelu Naicker] [30th June 1952]

In doing so, I wish to thank the hon. Members of this House for co-operating with us on this side of the House and seeing that this Bill is passed into law. I did not mention it in the beginning, but it was mentioned by the Hon. the Chief Minister, that the chief idea of this Bill is not one of requisitioning but derequisitioning and this derequisitioning also is not a new thing. It has been going on for a long time. By this legislation, we are only regularising the possession of property when this process is going on and there is nothing new in it. The Central Government's Act took care of their own properties and left this State to legislate for the properties that were in their possession. We are only making this process legal. Sir, originally, this Bill was not proposed to be referred to a Select Committee at all. It was put down in the Agenda of the Assembly only for being taken into consideration and passed into law. Later on, in response to the wishes of a certain section of that House the Bill was referred to a Select Committee."

SRI S. B. ADITYAN :—" Sir, may I ask the Hon. Minister not to spoil the effect of the Hon. the Chief Minister's speech? "

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I am not spoiling the effect of the Hon. the Chief Minister's speech at all. I am only saying that this is not a new piece of legislation. My hon. Friend will have ample opportunities of exhibiting his talent when there are other and bigger Bills coming before this House. I am only explaining that this is a very harmless piece of legislation."

MR. CHAIRMAN :—" The question is—

That the Madras Requisitioned Land (Continuance of Powers) Bill, 1952 (L.A. Bill No. 3 of 1952), as passed by the Assembly be read a third time and passed."

The Motion was carried and the Bill was passed.

MR. CHAIRMAN :—" The House will now adjourn and meet again at 4 p.m. on Friday, 4th July 1952."

The House then adjourned.

VII.—PAPERS LAID ON THE TABLE OF THE HOUSE.

1. *The Madras Sales of Motor Spirit Taxation (Amendment) Ordinance, 1952 (Madras Ordinance No. III of 1952)*

2. *The Madras Requisitioned Land (Continuance of Powers) Bill, 1952 (L.A. Bill No. 3 of 1952), as passed by the Assembly and received therefrom in the Council.*

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APPENDIX I.

[Vide answer to starred question No. 6 asked by Sri T. Purushothama Mudaliar at the meeting of the Legislative Council held on 30th June 1952, page 56 supra.]

Statement showing annual savings to the State since the inception of the State Transport Department.

Accounting period.	Government Bus Service.	Government Automobile Workshop.	Government Coach Building Factory.
	RS.	RS.	RS.
Since inception—			
1947-48 ..	6,00,461	Loss 1,208	(Not in existence)
1948-49 ..	8,59,296	32,980	2,07,317
1949-50 ..	1,47,602	1,07,146	1,03,291
1950-51 ..	4,21,937	2,03,048	85,414
Total	20,29,296	3,41,946	3,96,022

APPENDIX II.

[Vide item VI on page 66 supra.]

L.A. BILL No. 3 OF 1952.

(As passed by the Assembly.)

A Bill to provide for continuing the requisition of, and for acquiring where necessary, certain immovable properties which are now subject to requisition under the Madras Requisitioned Land (Continuance of Powers) Ordinance, 1952 (Madras Ordinance II of 1952).

WHEREAS it is expedient to provide for continuing the requisition of, and for acquiring where necessary, certain immovable properties which are now subject to requisition under the Madras Requisitioned Land (Continuance of Powers) Ordinance, 1952 (Madras Ordinance II of 1952); It is hereby enacted as follows:—

1. *Short title, extent and duration.*—(1) This Act may be called the Madras Requisitioned Land (Continuance of Powers) Act, 1952.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force at once, and shall cease to have effect on the 1st day of April 1953 except as respects things done or omitted to be done before that date; and section 8 of the Madras General Clauses Act, 1891 (Madras Act I of 1891), shall apply as if this Act had then been repealed by a Madras Act.

2. *Continuance of requisition.*—All immovable properties which were requisitioned by or under the authority of the

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State Government and for their purposes under the rules made under the Defence of India Act, 1939 (Central Act XXXV of 1939), and which at the commencement of this Act continued to be under requisition by virtue of the Requisitioned Land (Continuance of Powers) Act, 1947 (Central Act XVII of 1947), Madras Act II of 1951, Madras Ordinance I of 1952 and Madras Ordinance II of 1952 shall continue to be subject to requisition until the expiry of this Act; and the State Government may use or deal with any such immovable property (hereinafter referred to as requisitioned land) in such manner as may appear to them to be expedient:

Provided that the State Government may at any time release any requisitioned land from requisition.

3. *Release from requisition.*—(1) Where any requisitioned land is to be released from requisition, the State Government may, after making such inquiry, if any, as they consider necessary, specify by order in writing the person to whom possession of the land shall be given:

Provided that an order under this sub-section specifying some person other than the person from whom possession of the land was taken at the time of the requisition shall not be passed unless notice is given to the latter, or if he is dead, to his heirs or legal representatives and his or their representations, if any, have been considered.

(2) The delivery of possession of the requisitioned land to the person specified in an order made under sub-section (1) shall be a full discharge of the State Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and shall also publish the notice in the *Fort St. George Gazette*.

(4) When a notice referred to in sub-section (3) is published in the *Fort St. George Gazette*, the land specified on such notice shall cease to be subject to requisition on and from the date of such publication; but the State Government shall be in charge of such land until it is delivered to the person specified in the order under sub-section (1), or to his heirs or legal representatives or to an agent or other person empowered to accept delivery on behalf of such person or his heirs or legal representatives.

(5) The State Government shall not be liable for any compensation or other claim whatsoever in respect of the

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land for any period after the date of the publication of the notice referred to in sub-section (3), in any case, including the case where they are in charge of the land in pursuance of sub-section (4).

4. Power to acquire requisitioned land.—(1) If at any time the State Government are of opinion that it is necessary to acquire any requisitioned land for a public purpose, they may acquire such land by publishing in the *Fort St. George Gazette* a notice to the effect that they have decided to acquire such land in pursuance of this section.

(2) When a notice as aforesaid is published in the *Fort St. George Gazette*, the requisitioned land shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the State Government free from all encumbrances, and the period of requisition of such land shall end.

(3) No requisitioned land shall be acquired under this section except in the following circumstances, namely :—

(a) where any works have during the period of requisition been constructed on, in or over, the land wholly or partly at the expense of the State Government and they decide that the value of, or the right to use, such works should be preserved or secured for the purposes of the State Government; or

(b) where the cost of restoring the land to its condition at the time of its requisition would, in the determination of the State Government, be excessive having regard to the value of the land at that time and the owner declines to accept the release from requisition of the land without payment of compensation from the State Government.

(4) For the purposes of clause (a) of sub-section (3), "works" includes buildings, structures and improvements of every description.

5. Payment of compensation.—(1) In respect of the continued subjection of requisitioned land to requisition under this Act, compensation shall be determined and paid in accordance with the provisions of section 19 of the Defence of India Act, 1939 (Central Act XXXV of 1939), and of the rules made thereunder set out in the Schedule to this Act :

Provided that all agreements and awards for the payment of compensation in respect of any requisitioned land for any period of requisition before the commencement of this Act and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that land for any period of requisition after such commencement.

(2) In respect of any acquisition of requisitioned land under this Act, the amount of compensation payable shall be the price which the requisitioned land would have fetched in the open market if it had remained in the same condition as

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it was at the time of the requisition and been sold on the date of acquisition, and such amount shall be determined and paid in accordance with the procedure set out in the aforesaid section 19 and the rules made thereunder.

(3) For the purposes of sub-section (1) all the provisions of the aforesaid section 19 and of the rules made thereunder, and for the purposes of sub-section (2) such of those provisions as relate to matters of procedure, shall be deemed to be continuing in force.

6. Power to obtain information.—(1) The State Government may, with a view to carrying out the purposes of sections 2 to 5, by order require any person to furnish to such authority as may be specified in the order such information in his possession relating to any requisitioned land as may be specified.

(2) Every person required to furnish such information as is referred to in sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code (Central Act XLV of 1860).

7. Exercise of Government's powers and duties by others.—The State Government may, by order notified in the *Fort St. George Gazette*, direct that any power conferred or any duty imposed on them by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer as may be so specified.

8. Protection of action taken under the Act.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything, in good faith, done or intended to be done in pursuance of this Act or any order made thereunder.

9. Repeal of Central Act XVII of 1947, Madras Act II of 1951, Madras Ordinance I of 1952 and Madras Ordinance II of 1952.—(1) The Requisitioned Land (Continuance of Powers) Act, 1947 (hereinafter referred to as the said Act), in so far as it relates to the immovable properties referred to in section 2, and the enactments continuing the operation of that Act, namely, Madras Act II of 1951, Madras Ordinance I of 1952 and Madras Ordinance II of 1952, are hereby repealed:

Provided that anything done or any action taken in the exercise of any power conferred by or under the said Act or Madras Ordinance II of 1952, at any time before the commencement of this Act, shall be deemed to have been done or

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taken in the exercise of the corresponding power conferred by or under this Act, as if this Act were in force at the time when such thing was done or such action was taken.

(2) For the avoidance of doubt, it is hereby declared that the repeal of the said Act by Central Ordinance III of 1952 and Central Act XXX of 1952 shall not be deemed to have affected the operation of the said Act, as respects any requisitioned land as defined therein which at the time of such repeal was subject to requisition by or under the authority of the State Government and for their purposes.

SCHEDULE.

(See section 5.)

SECTION 19 OF THE DEFENCE OF INDIA ACT, 1939 (CENTRAL ACT XXXV OF 1939).

19. (1) Where by or under any rule made under this Act any action is taken of the nature described in sub-section (2) of section 299 of the Government of India Act, 1935, there shall be paid compensation, the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say:—

Compensation to be paid in accordance with certain principles for compulsory acquisition of immovable property, etc.

(a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement.

(b) Where no such agreement can be reached, the Central Government shall appoint as arbitrator a person qualified under sub-section (3) of section 220 of the abovementioned Act for appointment as a Judge of a High Court.

(c) The Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property acquired, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose.

(d) At the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation.

(e) The arbitrator in making his award shall have regard to—

(i) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable; and

(ii) whether the acquisition is of a permanent or temporary character.

(f) An appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed in this behalf by rule made by the Central Government.

(g) Save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.

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(2) The Central Government may make rules for the purpose of carrying into effect the provisions of this section.

(3) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the procedure to be followed in arbitrations under this section;

(b) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal;

(c) the maximum amount of an award against which no appeal shall lie.

RULES MADE UNDER SECTION 19 OF DEFENCE OF INDIA Act, 1939.

1. (1) These rules may be called the Defence of India (Payment of Compensation and Arbitration) Rules, 1943.

(2) These rules shall apply to all cases where action is taken under rule 75-A of the Defence of India Rules by or on behalf of the State Government, or by an officer of the State Government on behalf of the Central Government.

2. In these rules unless there is anything repugnant in the subject or context,

(a) "the Act" means the Defence of India Act, 1939;

(b) "Collector" means the Collector of a district or any officer authorized to exercise the powers under rule 75-A of the Defence of India Rules in regard to immovable property;

(c) "Court" means a Principal Civil Court of original jurisdiction;

(d) "person interested" includes all persons claiming an interest in compensation to be made for immovable property requisitioned or acquired under rule 75-A of the Defence of India Rules;

(e) "property" means immovable property requisitioned or acquired under rule 75-A of the Defence of India Rules.

3. In determining the amount of compensation the Collector shall be guided,

(a) in case of requisitioning, by the principles which the State Government may, by order, specify in that behalf; and

(b) in cases of acquisition, by the provisions contained in section 23 (1) of the Land Acquisition Act, 1894, so far as the said section can be made applicable.

4. The Collector shall, as soon as may be practicable after the making of a requisitioning order or the service or publication of a notice of acquisition, communicate, to each person interested, an offer of what, in the opinion of the Collector, is a fair amount of compensation payable to such person in respect of the property requisitioned or acquired.

5. If the owner of the property is not readily traceable or if there be no person competent to alienate the property or if the ownership of the property is in dispute or if there be any dispute

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as to the title to receive the compensation or as to the apportionment of the amount offered as compensation, the Collector shall deposit in Court the amount of the compensation as determined by him under rule 3. He shall at the same time submit to the State Government through the Board of Revenue, a report setting forth the full facts of the case with all the connected papers and apply for the appointment of an arbitrator. Where the compensation is recurring, the Collector shall, in cases covered by this rule, deposit the amount in Court from time to time in arrear as it falls due.

6. (1) Every person interested, to whom an offer is made under rule 4, shall, within fifteen days of the receipt of the offer, communicate in writing to the Collector his acceptance or otherwise of the offer. If he accepts the offer, the Collector shall enter into an agreement with him on behalf of the State Government or the Central Government, as the case may be, in the form in Schedule I or Schedule I-A annexed to these rules with such modifications as the nature of the case may require. Except in the cases specified in sub-rule (2), the Collector shall, as soon as may be practicable thereafter, pay to such person the sum specified in the offer.

(2) If the compensation is recurring, it shall, except in the cases hereinafter mentioned, be paid in arrears. If in the opinion of the Collector some immediate payment is necessary to alleviate hardship and the person interested has accepted the offer made under rule 4, the Collector may make an advance payment to him of an amount not exceeding the compensation payable for the first six months. If the compensation payable for a year does not exceed Rs. 10, the Collector may pay half-yearly in advance, the compensation due for every six months.

(3) In the following circumstances, the Collector may, at his discretion, make, to persons of small means, an advance payment up to 80 per cent of the amount which, in his opinion, is likely to be assessed as compensation, or recurring compensation for the first six months, as the case may be—

(a) when there is likely to be delay in assessing compensation,

(b) where the Collector has made an assessment but there is delay in reaching an agreement, though there is a reasonable prospect of agreement being reached, or

(c) where it is clear that an agreement cannot be reached.

(4) If the Collector makes an advance payment under sub-rule (3), he shall enter into an agreement with the person to whom payment is made on behalf of the State Government or the Central Government, as the case may be, in the form in Schedule II annexed to these rules, with such modifications as the nature of the case may require.

7. If any person to whom an offer is made under rule 4 does not accept the offer or does not within fifteen days of the receipt of the offer, communicate in writing to the Collector his acceptance or otherwise of the offer, the Collector shall, as soon as may be, submit to the State Government through the Board of Revenue a report setting forth the full facts of the case particularly as regards the nature and extent of disagreement

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between himself on the one hand and the said person on the other and he shall also forward with the report all the connected papers. The Collector shall at the same time deposit in court the amount offered by him to the said person under rule 4.

8. If on examination of the report submitted by the Collector under rule 7, and after further enquiries if necessary, the State Government are satisfied that an agreement cannot be reached they shall appoint an arbitrator under section 19 (b) of the Act. They shall also likewise appoint an arbitrator in every case in which they receive an application from the Collector under rule 5.

9. As soon as an arbitrator is appointed, the State Government or the Collector shall forward or cause to be forwarded to the arbitrator the relevant records connected with the case.

10. (1) The arbitrator shall, not later than three weeks from the date of receipt of the records referred to in rule 9, fix a day or days for hearing the claims and shall give notice thereof to the person or persons interested and to the Collector, at least five clear days before such hearing.

(2) On the day or days so affixed, the arbitrator shall proceed to inquire into the case, shall take such evidence as may be adduced on behalf of the claimants and on behalf of the State or Central Government, as the case may be, and shall make an award of the amount of compensation which in his opinion should be allowed for the property and of the apportionment of the said compensation among all persons known to be interested in the property.

(3) The arbitrator may adjourn his sittings, if he finds it necessary to do so, but the case shall be disposed of as expeditiously as possible.

11. Every award under rule 10 shall be in writing signed by the arbitrator and shall specify the grounds of the award.

12. As soon as the arbitrator makes an award under rule 10, the Collector shall pay the compensation awarded by the arbitrator to the persons entitled thereto according to the award except in the following cases:—

(1) Cases mentioned in rule 5.

(2) Cases in which the persons interested do not consent to receive payment but propose to appeal to the High Court against the award of the arbitrator and in which such an appeal lies under rule 14.

In the excepted cases, the Collector shall deposit in court the amount if any awarded by the arbitrator in excess of that determined by him under rule 3.

13. If any money is deposited in court under rule 5, rule 7 or rule 12, the court shall deal with it in the manner laid down in sections 32 and 33 of the Land Acquisition Act, 1894.

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14. No appeal shall lie to the High Court against the award of an arbitrator—

(i) in the case of an award of recurring compensation, where the total amount of such compensation for a period of five years does not exceed Rs. 5,000;

(ii) in other cases where the amount of the award does not exceed Rs. 5,000.

15. The arbitrator shall include in his award a statement of all costs, expenses and charges properly incurred by each of the parties in the course of the arbitration proceedings and, having regard to all the circumstances of the reference to arbitration, the proceedings thereon and the results thereof, decide how these costs, expenses and charges should be apportioned between the parties.

16. No person claiming under an award made under rule 10 shall be liable to pay any fee for a copy of the same.

SCHEDULE I.

[See rule 6 (1).]

Form of agreement to be made on behalf of the ^{State} ~~Central~~ Government with owners of immovable property requisitioned when payment is made in full.

MEMORANDUM OF AGREEMENT made this _____ day of _____ one thousand nine hundred _____ BETWEEN _____ son of _____ by caste _____ by occupation _____

at present residing at _____ hereinafter referred to as the ^{owner} ~~owners~~ (which expression shall unless excluded by or repugnant to the context be deemed to include ^{his} ~~their~~ heirs executors administrators and assigns) of the one part AND THE ^{GOVERNOR OF MADRAS} ~~CENTRAL GOVERNMENT~~ (hereinafter referred to as the Government) of the other part.

WHEREAS the immovable property particulars whereof are set out in the schedule hereunder (hereinafter called the said property) has been requisitioned under the Defence of India Act, 1939, and the rules framed thereunder and on the _____ day of _____ 19 _____ taken possession of by or on behalf of or under the authority of the Government;

AND WHEREAS the ^{owner has} ~~owners have~~ represented and stated to the Government that the ^{owner} ~~owners~~ alone ^{is} ~~are~~ entitled to all compensation payable in respect of the said property and no other person has any right to such compensation or any part thereof;

AND WHEREAS the said property consists *inter alia* of land and structures and Government has dismantled the said structures; [Omit if the owner had no structures.]

[30th June 1952]

[Omit if the owner had no structures.]

AND WHEREAS the owner and the Government have mutually agreed to settle the amount of compensation payable by the Government to the owner in connexion with the said requisition in the manner hereinafter appearing;

AND WHEREAS the Government have agreed to pay to the owner in advance a sum not exceeding the recurring compensation payable for the first _____ months of the said requisition;

NOW THIS AGREEMENT WITNESSETH as follows:—

[Omit if the owner had no structures.]

1. The Government shall pay and the owner shall accept and receive a sum of Rs. _____ in full settlement of the compensation for the structures.

2. The Government shall pay and the owner shall accept and receive a payment of Rs. _____ per month/quarter/year in arrear for the said property with effect from the said day of _____ 19____, so long as the Government shall remain in possession thereof and the requisition continues, the payment for the first _____ months being paid in advance.

3. The owner shall not claim or be entitled to any other compensation whatsoever in connexion with the said requisition.

4. The owner shall meet and pay the revenue, rent, municipal taxes and all other outgoings relating to the said property whether payable by the owner or the occupier thereof.

5. If it hereafter transpires that the owner is not entitled or exclusively entitled to the compensation payable in respect of the said property or if the Government have to pay any compensation to any other person the owner shall refund to the Government the compensation paid or such part thereof as the owner is not entitled to and shall otherwise indemnify the Government against any loss or damage suffered by the Government by reason of any fault or defect in title as represented by the owner. Without prejudice to any other remedies for the enforcement of such refund and indemnity the Government may recover any sum payable by way of refund and/or indemnity as arrears of land revenue.

6. Should any dispute or difference arise out of or concerning the subject-matter of these presents or any covenant, clause or thing herein contained or otherwise arising out of the requisition aforesaid the same shall be referred to an arbitrator to be appointed by the State Government and the decision of such arbitrator shall be conclusive and binding on the parties hereto. The provisions of the Arbitration Act, 1940, shall apply to such arbitration.

30th June 1952]

Schedule above referred to.

(Particulars and description of property requisitioned.)

IN WITNESS WHEREOF these presents have been executed the day and year first above written.

SIGNED and DELIVERED by the abovenamed
owner
owners in the presence of

SIGNED and DELIVERED for and on behalf
 of the Governor of Madras by
Central Government
 in the presence of

(When advance payment is made, the following shall be endorsed on the agreement.)

The owner acknowledges to have received on this date the sum
owners acknowledge of Rs. being an advance payment of the amount pay-
 able under paragraph hereof in respect of
 the period from to

Dated the day of

SCHEDULE I-A.

[See rule 6 (1).]

Form of agreement to be made on behalf of the State Govern-
Central ment with the owner of immovable property acquired when
 payment is made in full.

MEMORANDUM OF AGREEMENT made this day of 19

BETWEEN son of
 by caste by occupation
 at present residing at
 (hereinafter called the owner which expression shall unless
 excluded by or repugnant to the context be deemed to include
 his heirs, executors, administrators and assigns) of the one part

AND the Governor of Madras (hereinafter called the Govern-
Central Government ment) of the other part.

WHEREAS the immovable property, particulars whereof are set
 out in the schedule below (hereinafter called the said property)
 has been acquired under the Defence of India Rules on the day
 of

AND WHEREAS the owner has represented and stated to the
 Government that he alone is entitled to the compensation
 payable in respect of the said property and no other person
 has any right to such compensation or any part thereof;

AND WHEREAS the owner and the Government have mutually
 settled the amount of compensation payable by the Government
 to the owner in connexion with the said acquisition;

[30th June 1952]

Now, THIS AGREEMENT WITNESSETH as follows:—

The Government shall pay and the owner shall accept and receive a sum of Rs. _____ in full settlement of the compensation for the said property.

2. If it hereafter transpires that the owner is not entitled or exclusively entitled to the compensation payable in respect of the said property or if the Government have to pay any compensation to any other person, the owner shall refund to the Government the compensation paid or such part thereof as the owner was not entitled to receive and shall otherwise indemnify the Government against any loss or damage suffered by the Government by reason of any fault or defect in title as represented by the owner. Without prejudice to any other remedies for the enforcement of such refund and indemnity, the Government may recover any sum payable by way of refund and/or indemnity as arrears of land revenue.

3. Should any dispute or difference arise out of or concerning the subject-matter of these presents or any covenant, clause or thing herein contained or otherwise arising out of the acquisition aforesaid, the same shall be referred to an arbitrator to be appointed by the Government and the decision of such arbitrator shall be conclusive and binding on the parties hereto. The provisions of the Arbitration Act, 1940, shall apply to such arbitration.

Schedule above referred to.

IN WITNESS WHEREOF _____ and _____ acting for and on behalf of and by the order and direction of the Governor of Madras _____ have hereunto set their hands. Central Government

SIGNED by the abovenamed }
in the presence of

SIGNED by the abovenamed }
in the presence of

(When payment is made, the following shall be endorsed on the agreement.)

“The owner acknowledges to have received on this date the sum of Rs. _____ in full settlement of the compensation payable under clause 1 hereof.”

SCHEDULE II.

[See rule 6 (4).]

Form of agreement to be made on behalf of the State Central Government with owners of immovable property requisitioned when the persons to be compensated are known but for want of agreement as to the amount of compensation certain sums are paid on account.

30th June 1952]

MEMORANDUM OF AGREEMENT made this
day of one thousand nine hundred and
BETWEEN

son of by caste at present residing at
by occupation hereinafter referred to as the
owner
owners (which expression shall unless excluded by or repugnant
to the context be deemed to include his heirs, executors,
their respective administrators and assigns) of the one part AND THE GOVERNOR OF
MADRAS CENTRAL
GOVERNMENT (hereinafter referred to as the Government) of the
other part.

WHEREAS the immovable property, particulars whereof are set out
in the schedule hereunder (hereinafter called the said property)
has been requisitioned under the Defence of India Act, 1939, and
the rules framed thereunder and in the
day of 19 taken possession of by or on
behalf of or under the authority of the Government;

AND WHEREAS the said owner has represented and stated to
owners have the Government that the owner is entitled to all com-
owners are pensation payable in respect of the said property and no other
person has any right to such compensation or any part thereof;

AND WHEREAS no agreement has been arrived at between the
parties as to the amount of compensation payable to the owner
owners and the Government has at the request of the owner
owners agreed to
make payment to the owner on account pending an agreement
owners between the parties as to the amount of compensation payable
or the final determination of such amount under the law.

Now THIS AGREEMENT WITNESSETH as follows:—

1. The Government shall pay and the owner shall accept and
owners receive payment of Rs. per month/quarter/year
for the said property with effect from the said day of
19 pending agreement as to or determination of the amount
payable as compensation to the owner
owners.

2. Upon such agreement or determination of the amount pay-
able as compensation as aforesaid, an account shall be prepared
crediting the Government with the payments made by the
Government as aforesaid and debiting the Government with the
amount payable as compensation. If on such account being
prepared there is a balance in favour of the Government, the
amount of such balance shall be forthwith refunded by the

[30th June 1952]

owner
owners to the Government. If there is a balance payable to the owner
owners, the Government shall pay the amount thereof to the owner
owners.

3. If it hereafter transpires that the owner is
owners are not entitled or exclusively entitled to the compensation payable in respect of the said property or if the Government have to pay any compensation to any other person, the owner
owners shall refund to the Government the payments made hereunder and shall otherwise indemnify the Government against any loss or damage suffered by the Government by reason of any fault or defect in his
their title as represented by him
them. Without prejudice to any other remedies for the enforcement of any refund and/or indemnity, the Government may recover any sum payable by way of refund and/or indemnity as arrears of land revenue.

4. Should any dispute or difference arise out of or concerning the subject-matter of these presents or any covenant, clause or thing herein contained or otherwise arising out of the requisition aforesaid the same shall be referred to an arbitrator to be appointed by the State Government and the decision of such arbitrator shall be conclusive and binding on the parties hereto. The provisions of the Arbitration Act, 1940, shall apply to such arbitration.

Schedule above referred to.

IN WITNESS WHEREOF these presents have been executed the day and year first above written.

SIGNED and DELIVERED by the abovenamed
owner
owners in the presence of

SIGNED and DELIVERED for and on behalf of the
Governor of Madras
Central Government by